

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

INGRID C. CLARK and TERRY WAYNE  
ANDERSON,

Plaintiffs,

vs.

Case No. \_\_\_\_\_

FREDRICK E. BRADFORD and CRST  
EXPEDITED, INC.,

Defendants.

**NOTICE OF REMOVAL OF ACTION UNDER 28 U.S.C. §§ 1332 and 1441  
BY DEFENDANTS CRST EXPEDITED, INC. AND FREDRICK E. BRADFORD**

COMES NOW Defendant CRST Expedited, Inc. (“CRST”) and provides notice that it is removing the state court action described below to the U.S. District Court for the District of New Mexico pursuant to 28 U.S.C. §§ 1332 and 1441. In support of its removal notice, Defendant states as follows:

1. Plaintiffs commenced this personal injury action in the First Judicial District Court, County of Santa Fe by filing their “Complaint for Damages, Punitive Damages and Other Damages” entitled *INGRID C. CLARK and TERRY WAYNE ANDERSON, Plaintiffs, v. FREDRICK E. BRADFORD and CRST EXPEDITED, INC., Defendants*, Cause No. D-101-CV-2021-00969 (hereafter “Complaint”) on April 29, 2021. (*See* Plaintiff’s Complaint, *attached hereto as Exhibit A*).

2. Counsel for Defendant accepted service of the Complaint on June 24, 2021. (*See* Acc. of Serv., *attached hereto as Exhibit B*).

3. Defendant’s time to answer or remove with respect to the Complaint has not expired.

4. This Notice of Removal is filed in this Court within thirty (30) days of the service on Defendants of the initial pleading in this case. *See* 28 U.S.C. § 1446(b). The state court in which this

action commenced is within this Court's district. As set forth below, this Court has jurisdiction over the subject matter of this lawsuit. Therefore, this action is properly removed to this Court, pursuant to 28 U.S.C. §§ 1332, 1441 and 1446.

5. The state court in which this action was commenced is within this Court's district. As set forth below, this Court has jurisdiction over the subject matter of this lawsuit. Therefore, this action is properly removed to this Court, pursuant to 28 U.S.C. §§ 1332, 1441 and 1446.

### **DIVERSITY JURISDICTION**

6. Plaintiff Ingrid C. Clark is a citizen of the state of Virginia. (*See* Complaint at ¶ 1, *attached hereto as Exhibit A*).

7. Plaintiff Terry Wayne Anderson is a citizen of the state of Virginia. (*See* Complaint at ¶ 1, *attached hereto as Exhibit A*).

8. Defendant CRST Expedited, Inc. is an Iowa corporation with its principal place of business in Iowa. (*See* Complaint at ¶ 2, *attached hereto as Exhibit A*; Attorney Affidavit at ¶ 7, *attached hereto as Exhibit C*; IA Secretary of State, CRST Expedited, Inc., Info. Print, *attached hereto as Exhibit D*).

9. Defendant Fredrick Bradford is a citizen of the state of Tennessee. (*See* Complaint at ¶ 3, *attached hereto as Exhibit A*; Attorney Affidavit at ¶ 8, *attached hereto as Exhibit C*).

10. Complete diversity of citizenship exists for the purposes of this Court's original jurisdiction over the subject matter of this lawsuit.

11. To confer subject matter jurisdiction on this Court based on diversity of citizenship, the amount in controversy must exceed the sum or value of \$75,000.00, exclusive of interest and cost. 28 U.S.C. §1332(a). Where a complaint does not contain dispositive allegations of the amount in controversy, the jurisdictional amount is determined by the allegations in the underlying complaint. *See e.g., Laughlin v. Kmart Corp*, 50 p.3d, 871, 873 (10 Cir. 1995). Calculations of the amount in controversy

include both compensatory and punitive damages. *See, e.g., Bell v. Preferred Life Assur. Soc'y* 320 U.S. 238, 240 (1943); *Watson v. Blakenship*, 30 F.3d 383, 386 (10 Cir.1994). This calculation also includes attorney's fees. *See Miera v. Dairyland Ins. Co.*, No. 96-0136-M, mem.Op. (D.N.M. Feb. 28, 1996) (denying remand of removed action based on availability of attorney's fees under New Mexico Unfair Claims Practice Act and Unfair Trade Practices Act. *See also 14A Wright v. Miller, Federal Practice and Procedure*, §3712, at 176-78, and authorities cited therein; *Foret v. Souther Farm Bureau Life Ins. Co.*, 918 F. 2d 534, 537 (5 Cir. 1990). The calculation also includes treble damages claims.

12. Plaintiffs seek recovery for damages related to "severe and serious personal injuries" to Plaintiff Ingrid C. Clark and Terry Wayne Anderson. (*See e.g.* Complaint, ¶ 16, *attached hereto as Exhibit A*). According to medical billing summaries provided to Defendants, as of June, 2020, Plaintiff Clark's medical bills totaled at least \$16,211.41. According to medical billing summaries provided to Defendants, as of September, 2020, Plaintiff Anderson's medical bills totaled at least \$145,723.47. Given the allegations of the Complaint, the severity of the alleged motor vehicle accident, and the medical billing records provided to Defendants, the amount in controversy clearly exceeds \$75,000. (*See* Attorney Affidavit ¶ 6, *attached hereto as Exhibit C*).

13. This Notice of Removal is filed in this Court within thirty (30) of the service of Plaintiff's Complaint. *See* 28 U.S.C. § 1446(B)(3). The state court action was commenced less than one year from the date of this Notice of Removal. *See* 28 U.S.C. §1446(c)(1). The state court in which this action was commenced is within this Court's district. As set forth, this Court has jurisdiction over the subject matter of this lawsuit. Therefore, this action is properly removed to this Court, pursuant to 28 U.S.C. §§ 1332, 1441, and 1446.

14. The above-described action is a civil action of which this Court has original jurisdiction under the provisions of 28 U.S.C. §§ 1332, in that it is a civil action between citizens of

different states where the matter in controversy exceeds the sum or value of \$75,000.00, exclusive of interests and costs. (*See* Attorney Affidavit at ¶ 6, *attached hereto as Exhibit C*).

15. Defendant is concurrently filing a Notice to Adverse Parties of Removal to Federal Court, with the clerk of the First Judicial District Court, County of Santa Fe, State of New Mexico, pursuant to 28 U.S.C. §1441(b), together with this Notice.

16. Pursuant to D.N.M. LR-CIV 81.1(a), Defendant will submit copies of the records and proceedings from the state court action within thirty days of its filing of this Notice of Removal.

17. Venue is appropriate in the U.S. District Court for the District of New Mexico because the alleged actions and/or omissions occurred in New Mexico. (*See* Complaint at ¶¶ 4-5).

18. Defendant CRST Expedited, Inc. consents to removal. (*See* Attorney Affidavit at ¶ 10, *attached hereto as Exhibit C*).

19. Defendant Fredrick E. Bradford consents to removal. (*See* Attorney Affidavit at ¶ 11, *attached hereto as Exhibit C*).

Respectfully submitted,

CIVEROLO, GRALOW & HILL, P.A.

By: /s/ Lance D. Richards, June 24, 2021

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**CERTIFICATE OF SERVICE**

IT IS HEREBY CERTIFIED that a true copy of the foregoing was filed electronically through the U.S. District Court for the District of New Mexico's CM/ECF filing system on June 24, 2021, which caused the following attorneys to be electronically served as follows:

Mark Caruso, Esq.  
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*Attorney for Plaintiffs*

/s/ Lance D. Richards, June 24, 2021

Lance D. Richards  
Lauren R. Wilber